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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,943

02/20/2004

Paul Anthony Murray

9697

25628

7590

04/04/2006

LAW OFFICES OF WILLIAM H. HOLT  
12311 HARBOR DRIVE  
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EXAMINER

GAY, JENNIFER HAWKINS

ART UNIT

PAPER NUMBER

3672

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/781,943	MURRAY ET AL.	
	Examiner	Art Unit	
	Jennifer H. Gay	3672	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☒ Newly proposed or amended claim(s) 14 (and previously allowed claims 8-11) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 8-11.  
Claim(s) objected to: 14.  
Claim(s) rejected: 12, 13, 15 and 16.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
Jennifer H. Gay  
Primary Examiner  
Art Unit: 3672

Continuation of 3. NOTE: The amendment to claim 12 constitutes new issues as it requires further search and consideration.

Continuation of 5. Applicant's reply has overcome the following rejection(s): Applicant's arguments with respect to claim 13 were persuasive thus overcoming the 35 USC 103 rejection of the claim.

Continuation of 11. does NOT place the application in condition for allowance because: With respect to applicant's argument against the 35 USC 112(1) rejection of claim 16, while the examiner agrees that the specification has basis for the concept but as written claim 16 doesn't require that both tubes be of the same diameter. The phrase "both tubes being of the same uniform bore along their length" can easily be interpreted as either each tube has a uniform diameter along its whole length (this is how the examiner has read the claim) or that both tubes are of the same diameter. While the specification has basis for both tubes being of the same diameter, the above phrase has not been defined in the specification as such. Therefore, as interpreted, the pig would not be capable of performing the function recited in claim 16. Applicant has argued that the pig of Morgan is not "impermeable" as intended by applicant as fluid flows through the pig of Morgan in one direction. While the examiner agrees that fluid can flow through the pig of Morgan in one direction, the pig is still "impermeable" to fluid flow in the opposite direction. The claims do not require that the pig be impermeable to fluid flow in both directions. Applicant has also argued that Morgan does not teach the use of flexible tubes. While the examiner agrees, she has taken Official Notice of the equivalence between rigid and flexible tubes in operations such as that in the instant application and Morgan. This is supported by applicant's statement on page 8, lines 8-14 where it has been indicated that the flexible tubes could be replaced with rigid tubes..